

35 U.S.C. §112

The Examiner has rejected Claims 1-15 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to Claim 1, Examiner states that the phrases "said sheet of material" and "said peripheral edges" on lines 7 and 8 of the claim lack positive antecedent basis. Claim 1 has been amended, inserting the word flexible before the word "sheet" on line 7. In light of the amendment it is believed that positive antecedent basis has been provided. As to the phrase "said peripheral edges", positive antecedent basis can be found on line 3 in the preface of Claim 1. Thus, having amended the claim, it is believed that Examiner's §112 rejection with respect to Claim 1 has been overcome.

As to Claim 6, Examiner states that the phrase "said flexible sheet" lacks antecedent basis. In light of the amendment to Claim 1, applicant believes that antecedent basis has been provided and that Examiner's rejection is overcome.

As to Claim 8, applicant has amended the claim substituting the word semicircular for the word "circumferential" on line 6 and substituting the word tubular for the word "cell" on line 7. Applicant believes the aforementioned amendment satisfies the Examiner's rejection.

As to Claim 12, applicant believes that positive antecedent basis for the phrase "said spectrochemical analysis" can be found on line 2 of Claim 1. For the sake of clarity, however, applicant has amended the claim, deleting the word "said" before spectrochemical analysis.

As to Claim 13, applicant believes that antecedent basis for the phrase "said sample" can be found on line 1 of Claim 1. However, applicant has substituted "a sample" for "said sample" in order to improve clarity.

As to Claim 14, applicant has replaced the phrase "said sample cup" with the phrase "said sample receptacle" in order to provide proper antecedent basis. Thus, it is believed that Examiner's Section 112 rejection has been overcome.

35 U.S.C. §102(b)

The Examiner has rejected Claims 1-15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,698,210 to Solazzi.

As to Claim 1, Examiner states that Solazzi ('210) illustrates a tubular body having a tapered exterior wall and an annular collar being disposed around the tubular body with an interference fit, whereby the collar engages a sheet of material disposed across the open end of the tubular body covering the peripheral edges of the sheet of material and pulling the sheet taut over open end.

Applicant respectfully traverses Examiner's §102(b) rejection of Claim 1, since Solazzi ('210) does not teach covering the peripheral edges of the sheet of material by means of the annular collar. In fact the Solazzi '210 patent teaches away from coverage of the peripheral edges, because all of the figures present a structure showing extraneous pieces of material protruding from beyond the annular collar. (See Figs. 1, 4 and 5 for example.)

In any event, applicant has amended Claim 1 to further clarify that the annular collar is disposed around substantially all of the predetermined length of the tubular body in an interference fit, whereby the peripheral edges of the flexible sheet of material are prevented from extending beyond the annular collar in order to eliminate having to trim the sheet of material. Solazzi '210 does not teach having the annular collar disposed around substantially all of the predetermined length of the tubular body. In fact, Solazzi '210 discloses an annular collar which is disposed over only a small portion of the exterior wall of the tubular body, whereby significant extraneous material overhangs the edge of the collar. The present invention provides a novel structure for a sample receptacle wherein the design of the annular collar eliminates the overhang of extraneous thin film material (which is usually provided in rectangular sheets) and alleviates having to trim any material from the sides of the cup before handling. In light of the amendment to the claim, it is believed that Claim 1 is now patentably distinguishable and would not be anticipated by Solazzi '210, and that the Examiner's §112 rejection with respect to Claim 1 has been overcome.

As to Claims 2 and 3, each of these claims depends from and includes all the limitations of the base Claim 1, which is believed to be patentable. In light thereof, Claim 2 and 3 are also believed to be patentable.

Applicant has amended Claim 4 in order to more clearly point out that the annular collar of the present invention engages substantially all of the predetermined length of the tubular body and the tapered outside wall in an interference fit. As was mentioned previously, the Solazzi '210 patent discloses a sample cup wherein the annular collar engages only a small portion of the tubular body causing the peripheral edges of the sheet of material to not be fully covered. Since the annular collar of the present invention engages substantially the entire tubular body and exterior tapered wall, the peripheral edges of the sheet of material no longer extend beyond the collar. This is a new, useful and non-obvious improvement to sample cups of the prior art. For this reason it is believed that the Solazzi '210 patent does not anticipate Claim 4 of the present application.

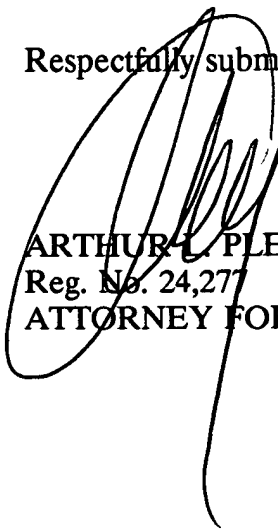
All of the remaining Claims 5-15 inevitably depend from and include all the limitations of Claim 1. Thus, Claims 5-15 should be patentable based upon their dependency on Claim 1, as well as the additional novel features recited therein.

SUMMARY

Thus, having fully addressed the Examiner's §112 and §102(b) rejections, it is believed that in view of the preceding amendments and remarks, that this entire application stands in condition for allowance. If, however, the Examiner is of the opinion that such action cannot be taken, he is invited to contact the applicant's attorney at the number and address below in order that any outstanding issues may be resolved without the necessity of issuing a further Office Action.

It is believed there are no fees due, however, if there are any fees due and owing, please charge our Deposit Account No. 16-2131.

Respectfully submitted,



ARTHUR L. PLEVY
Reg. No. 24,277
ATTORNEY FOR APPLICANT

Please address all future correspondence to:
ARTHUR L. PLEVY, ESQ.
PLEVY AND ASSOCIATES
P.O. Box 1366
146 Route 1 North
Edison, N.J. 08818-1366
(908) 572-5858
ALP/MJH